

FEDERAL REGISTER

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Washington, Saturday, November 2, 1940

The President

EXECUTIVE ORDER

PARTIAL REVOCATION OF EXECUTIVE ORDER No. 5886 OF JULY 12, 1932, WITHDRAW- ING PUBLIC LANDS

WYOMING

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, Executive Order No. 5886 of July 12, 1932, withdrawing public lands in Wyoming pending a resurvey, is hereby revoked as to the following-described township:

Sixth Principal Meridian

T. 28 N., R. 115 W.

This order shall become effective upon the date of the official filing of the plat of the resurvey of the above-described township.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,

November 1, 1940.

[No. 8583]

[F. R. Doc. 40-4686; Filed, November 1, 1940; 9:42 a. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT CHAPTER II—COMMODITY CREDIT CORPORATION

[1940 C.C.C. Grain Sorghums Form 1, In-
structions]

INSTRUCTIONS CONCERNING GRAIN SOR- GHUMS LOANS

These instructions are issued pursuant to the provisions of Title III—sec. 302 (a) of the Agricultural Adjustment Act of 1938, as Amended.

Commodity Credit Corporation has authorized the making of loans in accordance with these instructions upon the security of grain sorghums stored on

farms, and in approved public country warehouses.

PART 216—1940 GRAIN SORGHUMS LOANS

Sec.

- 216.1 Definitions.
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- 216.16 Release of collateral.

§ 216.1 *Definitions.* For the purpose of these instructions and the notes and chattel mortgages relating thereto, the following terms shall be construed, respectively, to mean:

(a) *Eligible producer.* Any person, partnership, association or corporation producing grain sorghums as landowner, landlord, or tenant upon whose farm the 1940 total soil-depleting acreage does not exceed the total soil-depleting acreage allotment established for the farm under the 1940 Agricultural Conservation Program.

(b) *Eligible grain sorghums.* Grain sorghums of any class grading No. 4 or better, which were produced in 1940, the beneficial interest to which is and always has been in the eligible producer, will be eligible for a loan, except that grain sorghums grading weevily or smutty or which contain in excess of 13 percent moisture if stored on farms or 14 percent if stored in public grain elevators, shall not be eligible for a loan.

(c) *Eligible storage.* Shall include public grain warehouses and farm storage meeting the following respective requirements:

(1) Public grain warehouses located at country points which have met the requirements of Commodity Credit Cor-

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poration and have executed a Uniform Grain Storage Agreement (C.C.C. Form H), including "grain sorghums" in the definition of "eligible grain". Such warehouses shall be situated at country points.

(2) Farm storage shall consist of farm bins and granaries which are of such substantial and firm construction as to afford safe storage of the grain sorghums for a period of two years and permit effective fumigation for the destruction of insects and afford protection against rodents, other animals, thieves, and weather, as determined by the State and County Agricultural Conservation Committees.

(d) *Lending agency.* Any bank, cooperative marketing association, or other corporation, partnership, or person making loans in accordance with these instructions, which has executed the Contract to Purchase on 1940 C.C.C. Form E.

(e) *Eligible paper.* Eligible paper shall consist of notes of the producers secured by chattel mortgages or warehouse receipts representing grain sorghums in existence and undamaged, dated on or subsequent to October 1, 1940, and prior to January 31, 1941, and executed in accordance with these instructions, with State documentary revenue stamps affixed thereto where required by law. Notes executed by an administrator, executor or trustee will be acceptable only where valid in law.*

§ 216.2 *Forms.* Loans will be made on the following forms only and no substitutions will be acceptable:

- (a) Grain Sorghums Producer's Note (1940 C.C.C. Grain Sorghums Form A).
- (b) Grain Sorghums Chattel Mortgage (1940 C.C.C. Grain Sorghums Form AA).
- (c) Grain Sorghums Producer's Note and Loan Agreement (1940 C.C.C. Grain Sorghums Form B).

(d) Warehouse receipts complying with the provisions of § 216.9 hereof issued by approved warehouses.*

§ 216.3 *Areas in which loans will be made.* Loans shall be made on eligible grain sorghums produced in the States of Colorado, Kansas, New Mexico, Oklahoma and Texas when stored in (1) approved public grain warehouses located at country points or (2) in approved private bins or granaries located in the following counties:

Colorado: All counties.
Kansas: All counties.
New Mexico: Colfax, Curry, Harding, Quay, Rio Arriba, Roosevelt, San Juan, Taos, McKinley, Mora, San Miguel, and Union.

Oklahoma: Counties which are approved by the Agricultural Adjustment Administration upon the recommendation of the State Agricultural Conservation Committee.

Texas: Counties which are approved by the Agricultural Adjustment Administration upon the recommendation of the State Agricultural Conservation Committee.

(A list of counties in Oklahoma and Texas approved for farm storage will be available in the Washington, D. C. office of the Agricultural Adjustment Administration, the office of the Special Representative of Commodity Credit Corporation, Kansas City, Missouri, and the offices of the Oklahoma and Texas State Agricultural Conservation Committees).*

§ 216.4 *Amount of loans.* Loan values on grain sorghums shall be based on the

*§§ 216.1 to 216.16 inclusive issued under authority contained in Sec. 302 (a) 52 Stat. 43; 7 U.S.C. 1302.

numerical grade, irrespective of subclass, except mixed grain sorghums (class V) in accordance with the following schedule:

Grain sorghums stored on farms:	Cents per bushel
#1 Grain Sorghums.....	30
#2 Grain Sorghums.....	28
#3 Grain Sorghums.....	25
#4 Grain Sorghums.....	20
Grain sorghums stored in public warehouses:	Cents per bushel
#1 Grain Sorghums.....	23
#2 Grain Sorghums.....	21
#3 Grain Sorghums.....	18
#4 Grain Sorghums.....	13

The above loan values are subject to a discount of 2¢ per bushel for mixed grain sorghums.*

§ 216.5 *Maturity and interest rate.* Notes secured by farm-stored grain sorghums shall mature on demand or eight (8) months from the date thereof, and notes secured by warehouse receipts representing grain sorghums shall mature on demand, or April 30, 1941. All loans will bear interest at the rate of 3 percent per annum. Notes evidencing such loans must be dated on or before January 31, 1941.*

§ 216.6 *Farm storage.* Grain sorghums stored on the farm must have been threshed and stored in the granary at least thirty (30) days prior to its inspection, measurement, sampling and sealing. In accordance with regulations issued by the Secretary of Agriculture (Commodity Loan Regulations No. 1, as amended) the State and County Agricultural Conservation Committees will inspect and approve storage facilities and will arrange for measuring, sampling, grading, and sealing the grain sorghums collateral in approved structures. Chattel mortgages covering farm-stored grain sorghums must be executed and filed in accordance with the applicable State law. Producers may obtain information and assistance from the County Agricultural Conservation Committees in regard to the execution and filing of chattel mortgages. Where the borrower is a tenant farmer and the grain sorghums collateral is stored on the farm, the expiration date of the lease shall be given in section 2 of the chattel mortgage. If the expiration date of the lease is prior to one year after the execution of the note, the landlord shall execute the Consent for Storage, Section 11 of the chattel mortgage. The consent agreement shall also be signed by any other party or parties entitled to possession. A separate note and chattel mortgage must be submitted for grain sorghums stored on each quarter section of land.*

§ 216.7 *Chattel mortgages.* All documents must be carefully examined as to compliance with the requirements set out in section 12—1940 CCC Wheat Form 1.*

§ 216.8 *Public warehouses.* Commodity Credit Corporation will accept only negotiable insured warehouse receipts covering grain sorghums pledged as col-

lateral to notes on 1940 C.C.C. Grain Sorghums Form B issued by an approved public grain warehouse. Warehousemen desiring approval should communicate with the Special Representative of Commodity Credit Corporation at Kansas City, Missouri. A list of approved warehouses may be obtained from the State or County Agricultural Conservation Office in the area where loans are available. All grain sorghums pledged as security to a note must be stored in the same warehouse.*

§ 216.9 *Warehouse receipts.* Warehouse receipts must be dated on or prior to the date of the related note and properly assigned by an endorsement in blank, so as to vest title in the holder, or issued to bearer, and must be issued by approved warehouses. Unless the warehouse receipts are stamped or printed "insured" or "fully insured" there must be attached or included in the certificate of the warehouseman a statement that the grain sorghums are insured for not less than the market value, against the hazards of fire, lightning, inherent explosion, windstorm, cyclone, and tornado. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from October 1, 1940, or the dates of the warehouse receipts, whichever is later. Such receipts must set out in their written or printed terms the gross weight or bushels, the class and grade, the percentage of sound grain sorghums, test weight and all other facts and statements required to be stated in the written or printed terms of the negotiable warehouse receipts under the provisions of section 2 of the Uniform Warehouse Receipts Act, or are to be accompanied by the Certificate of the warehouseman identified to such warehouse receipt, setting out such information, and shall be based on the delivery of the grain sorghums to an approved warehouse. Warehouse receipts must have a notation thereon, or a certificate attached signed by the warehouseman, that the grain sorghums represented thereby do not contain moisture content in excess of 14 percent. A warehouse receipt representing No. 1 grain sorghums need not show moisture content as this grade permits a maximum of 14 percent moisture.*

§ 216.10 *Liens.* The grain sorghums collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in the chattel mortgage or note and loan agreement. The names of the holders of all existing liens on the pledged or mortgaged grain sorghums, such as landlord laborers, threshers, or mortgagees, must be listed in the space provided therefor in the mortgage or loan agreement. The waiver and consent to pledge or mortgage of the grain sorghums and the payment of the proceeds of the loan, and the proceeds of the sale of the grain sorghums

solely to the producer as contained in the mortgage or loan agreement must be signed personally by all lienholders listed or by their duly authorized agents; or, if corporations, by the designated officer thereof customarily authorized to execute such instruments. (In lieu of signing the section of the chattel mortgage entitled "List of Lienholders and Their Waivers and Consent to Pledge," lienholders may sign 1940 C.C.C. Wheat Form AB, properly corrected, which must completely identify the related note). The producer may direct in the Letter of Transmittal (1940 C.C.C. Wheat Form C, properly corrected) that the proceeds of the loan be made payable to him and/or such other person or concern as he may direct thereon. Producers should read carefully all real estate or other mortgages previously given by them in order to be sure that crops are not covered thereby. Any fraudulent misrepresentation of facts made in the execution of the note and loan agreement or mortgage and related forms shall render the producer personally liable for the amount of the loan, plus interest and charges, and will be subject to the provisions of the United States Criminal Code.*

§ 216.11 *Insurance—(a) Grain sorghums stored on farms.* The producer must obtain primary insurance on grain sorghums stored on the farm for not less than the amount of the loan, plus accrued interest to maturity. Such insurance shall be evidenced by a certificate in a form approved by Commodity Credit Corporation issued by a company or association licensed to do business in the State in which the grain sorghums are stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the Agent writing same.

(b) *Grain sorghums stored in approved warehouses.* With respect to such grain sorghums, the warehousemen shall provide insurance against the perils of fire, lightning, inherent explosion and windstorm, cyclone and tornado, for the full market value thereof, so long as receipts are outstanding.

In addition to the foregoing, Commodity Credit Corporation has obtained a blanket insurance policy to protect it against errors and omissions in the primary insurance coverage, and certain other risks not covered by the primary insurance. This secondary insurance will be secured by Commodity Credit Corporation for all loans and the cost of the insurance will be paid from the service fees collected from producers.*

§ 216.12 *County agricultural conservation committee.* The producer's note contains a certificate which should not bear a date prior to the date of the note or loan agreement and which must be signed in each instance by a member of the county agricultural conservation committee of the county in which the grain sorghums were produced for grain sorghums stored in warehouses, and the

county in which the grain sorghums are stored for grain sorghums stored on farms. The State and County Committees will determine or cause to be determined the quantity and grade of the grain sorghums collateral and the amount of the loan. All loan documents will be examined and approved by the County Committee. In order to meet the cost of the local expenses, County Agricultural Conservation Associations will collect a service fee for all loans.*

§ 216.13 *Source of loans.* Loans may be obtained through banks and other local lending agencies, which in turn, may sell the paper evidencing such loans to Commodity Credit Corporation. Producers may also obtain loans direct from the Corporation on notes made payable to the Corporation, which shall be delivered to the Special Representative at Kansas City, Missouri, accompanied by producer's Letter of Transmittal in duplicate, delivered or postmarked on or before January 31, 1941. Upon approval of the loan by the Special Representative, payment will be made pursuant to the Letter of Transmittal.*

§ 216.14 *Purchase of loans.* Commodity Credit Corporation will purchase, without recourse, eligible paper, as defined above, only from lending agencies which have executed and delivered to the office of a Special Representative of Commodity Credit Corporation Contract to Purchase, 1940 C.C.C. Form E, obtainable only from such Special Representative.

Paper held by lending agencies must be tendered 30 days prior to maturity to the Special Representative of Commodity Credit Corporation at Kansas City, Missouri. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the face amount of such notes plus accrued interest from the respective dates to the date of payment of the purchase price at the rate of 1½ percent per annum. Under the terms of the Contract to Purchase, lending agencies are required to report weekly on 1940 C.C.C. Form F all payments or collections on producers' notes held by them, and to remit with such report to Special Representative of Commodity Credit Corporation, as shown below, an amount equivalent to 1½ percent interest per annum on the principal amount collected from the date of the note to the date of payment.*

§ 216.15 *Office of the Special Representative of Commodity Credit Corporation.* The address of the Special Representative previously referred to herein is 1014 Federal Reserve Bank Building, Kansas City, Missouri.*

§ 216.16 *Release of collateral.* The producer may obtain the return of notes secured by grain sorghums at any time prior to maturity, upon the payment of the principal amount due thereon, plus accrued interest and charges. No allowance will be made for storage by Commodity Credit Corporation. The loan paper may be sent to an approved bank

for collection or the producer may ascertain the amount due and remit directly to the office of the Special Representative of Commodity Credit Corporation holding the paper. Partial releases of collateral will be made as follows:

(a) In the case of farm-stored grain sorghums, the producer must identify to the Special Representative or lending agency the seal number of the bin to be released. Such release must cover all the grain sorghums in any one bin. Such release will be made upon payment of the amount loaned on the particular bin of grain sorghums, plus interest.

(b) In the case of elevator-stored grain sorghums, producers desiring to obtain partial release should notify the Special Representative or lending agency describing the grain sorghums to be released, by warehouse receipt numbers. Each partial release must cover all the grain sorghums under one warehouse receipt. The warehouse receipt representing such grain sorghums will be released upon payment of the amount loaned, plus interest on such amount and any charges applicable thereto.*

[SEAL] CARL B. ROBBINS,
President.

[F. R. Doc. 40-4689; Filed, November 1, 1940;
11:31 a. m.]

TITLE 7—AGRICULTURE

CHAPTER VIII—SUGAR DIVISION OF THE AGRICULTURAL ADJUST- MENT ADMINISTRATION

PART 802—SUGAR DETERMINATIONS

DETERMINATION WITH RESPECT TO THE ACTUAL PRODUCTION OF SUGAR FROM THE 1940 CROP OF MAINLAND SUGARCANE

Pursuant to the provisions of section 1 of Public Resolution No. 104, 76th Congress, approved October 10, 1940, I, Paul H. Appleby, Acting Secretary of Agriculture, do hereby make the following determination:

§ 802.27 *Production of sugar from the 1940 crop of mainland sugarcane.* The actual production of sugar from the 1940 sugarcane crop acreage in the mainland cane sugar area will not exceed the estimated production of the 1940 proportionate share acreage for that area of 505,000 tons of sugar. (Sec. 1, Pub. Res. No. 104, 76th Congress, approved October 10, 1940)

Done at Washington, D. C., this 31st day of October, 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Acting Secretary.

[F. R. Doc. 40-4690; Filed, November 1, 1940;
11:31 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 270—INVESTMENT COMPANY ACT OF 1940

TEMPORARY EXEMPTION FOR MANAGEMENT COMPANIES RETAINING CUSTODY OF SECURITIES

Acting pursuant to the Investment Company Act of 1940, particularly sections 6 (c), 17 (f) and 38 (a), and deeming such action appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, the Securities and Exchange Commission hereby adopts § 270.6c-2 to read as follows:

§ 270.6c-2 *Temporary exemption for management companies retaining custody of securities.* (a) Every registered management company the securities and similar investments of which are maintained, on November 1, 1940, in the custody of such registered company shall be exempt until November 15, 1940, from that part of section 17 (f) (3) which permits such custody only in accordance with rules, regulations or orders of the Commission.

(b) If such registered management company shall have filed with the Commission before November 15, 1940, an application for an order permitting its securities and similar investments to be maintained in the custody of such company, the exemption provided in paragraph (a) shall continue until final determination of such application by the Commission. (Pub. 768—76th Cong.) [Gen. Rules and Regs., Rule N-6C-2, effective November 1, 1940]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4681; Filed, October 31, 1940;
4:35 p. m.]

TEMPORARY EXEMPTION FOR EMPLOYEES' SECURITIES COMPANY

Acting pursuant to the authority conferred upon it by the Investment Company Act of 1940, particularly sections 6 (c) and 38 (a) thereof, and deeming the temporary exemption hereinafter provided appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act, the Securities and Exchange Commission hereby adopts § 270.6c-3 to read as follows:

§ 270.6c-3 *Temporary exemption for employees' securities companies.* (a) Any employees' securities company shall be exempt until November 15, 1940, from all provisions of this Act applicable to investment companies as such.

(b) If such employees' securities company shall have filed with the Commission before November 15, 1940, an application for an order of exemption under Section 6 (b), the exemption provided in paragraph (a) shall continue until final determination of such application by the Commission. (Pub. 768—76th Cong.) [Gen. Rules and Regs., Rule N-6C-3, effective November 1, 1940.]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4682; Filed, October 31, 1940;
4:35 p. m.]

EXEMPTION FOR CERTAIN CLOSED-END INVESTMENT COMPANIES AND TEMPORARY EXEMPTION FOR CERTAIN CLOSED-END INVESTMENT COMPANIES

Acting pursuant to the authority conferred upon it by the Investment Company Act of 1940, particularly sections 6 (c) and 38 (a) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out the provisions of the Act, the Securities and Exchange Commission hereby adopts §§ 270.6d-1 and 270.6c-4, to read as follows:

§ 270.6d-1 *Exemption for certain closed-end investment companies.* (a) An application under section 6 (d) of the Act shall contain the following information:

(1) A brief description of the character of the business and investment policy of the applicant.

(2) The information relied upon by the applicant to satisfy the conditions of paragraphs (1) and (2) of section 6 (d) of the Act.

(3) The number of holders of each class of the applicant's outstanding securities.

(4) An unconsolidated balance sheet as of a date not earlier than the end of the applicant's last fiscal year, together with a schedule specifying the title, the amount, the book value and, if determinable, the market value of each security in the applicant's portfolio.

(5) An unconsolidated profit and loss statement for the applicant's last fiscal year.

(6) A statement of each provision of the Act from which the applicant seeks exemption, together with a statement of the facts by reason of which, in the applicant's opinion, such exemption is not contrary to the public interest or inconsistent with the protection of investors.

(b) There shall be attached to each copy of the application a copy of Form N-8A. The form need not be executed, but it shall be clearly marked on its facing page as an exhibit to the applica-

tion. The filing of Form N-8A in this manner shall not be construed as the filing of a notification of registration under section 8 (a) of the Act.

(c) The application may contain any additional information which the applicant desires to submit. (Pub. 768—76th Cong.) [Gen. Rules & Regs., Rule N-6D-1—effective November 1, 1940]

§ 270.6c-4 *Temporary exemption for certain closed-end investment companies.*

(a) Any closed-end investment company which satisfies the conditions of paragraphs (1) and (2) of Section 6(d) of the Act shall be exempt until November 15, 1940, from all provisions of the Act applicable to investment companies as such.

(b) If any such company shall have filed with the Commission before November 15, 1940, an application for an order of exemption under § 270.6d-1, the exemption provided by paragraph (a) of this rule shall continue until final determination of such application by the Commission. (Pub. 768—76th Cong.) [Gen. Rules and Regs., Rule N-6C-4, effective November 1, 1940]

By the Commission.

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4683; Filed, October 31, 1940;
4:36 p. m.]

TITLE 47—TELECOMMUNICATION

CHAPTER I—FEDERAL
COMMUNICATIONS COMMISSION

PART 3—STANDARD AND HIGH FREQUENCY
BROADCAST STATIONS

AMENDMENT

The Commission on October 29, 1940 effective immediately, amended § 3.51¹ (a) (2) to read as follows:

§ 3.51 *Operating power; how determined.*

(2) Each existing standard broadcast station after June 1, 1941.

By the Commission,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4688; Filed, November 1, 1940;
11:23 a. m.]

PART 6—FIXED PUBLIC RADIO SERVICES

AMENDMENTS

The Commission on October 29, 1940, effective immediately, took the following action:

Amended § 6.27 to read as follows:

§ 6.27 *Experimental research.* The licensee of a station may be authorized to use a transmitter which is licensed for fixed public or fixed public press

service for experimental research in accordance with the rules and regulations governing the experimental service upon the condition that no interference will be caused to the public service. Class I and Class II experimental stations authorized to operate as point-to-point telegraph or telephone stations shall comply with the rules governing fixed public radio services in addition to the rules and regulations governing experimental radio services.

Adopted the following new rule:

§ 6.38 *Experimental points of communication, limitations.* Class I or Class II experimental stations licensed to operate as point-to-point telegraph or telephone stations in the fixed public service may communicate only with other experimental stations located within the continental limits of the United States: *Provided, however,* That upon application the Commission may authorize such a station to communicate with one or more specific points in a territory or possession of the United States or with a specific foreign point. In each such case the Commission will determine the nature of the experimental transmissions which may be made to such point of communication outside the continental United States. (Sec. 4 (i), 48 Stat. 1068; 47 U.S.C. 154 (i))

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4687; Filed, November 1, 1940;
11:23 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. FD-A-1]

PETITION OF DISTRICT BOARD NO. 11 FOR RELIEF IN RESPECT TO COMPETITION BETWEEN DISTRICT NO. 11 CODE MEMBERS AND VARIOUS VENDORS OF EXISTING STOCKS OF COAL ON DOCKS LOCATED ON LAKE SUPERIOR AND LAKE MICHIGAN, AND RELATED MATTERS, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

MEMORANDUM OPINION AND ORDER EXTENDING TEMPORARY RELIEF TO INTERVENERS OLD BEN COAL CORPORATION, ET AL., AND DISTRICT BOARD NO. 9

On October 9, 1940, the Director issued an order in the above-entitled matter, granting temporary relief to the original petitioner and to intervener Carter Coal Company, which had specifically prayed that any relief accorded to the original petitioner be likewise extended to it as an intervening party similarly affected by the circumstances of which the original petition complained. That order specifically provided that any other inter-

veners would be granted the same relief upon the submission of a prayer therefor, in the form of an amendment to their petitions of intervention in Docket FD-A-1. That order further provided that any other persons eligible to become parties in this proceeding might file an application, supported by a reasonable showing of necessity, for the extension to them of the same relief.

On October 25, 1940, an amendment to their petition of intervention in this proceeding, specifically praying for the same temporary relief granted to the original petitioner, was filed by interveners Old Ben Coal Corporation; Bell & Zoller Coal & Mining Company; Chicago, Wilmington and Franklin Coal Company; Franklin County Coal Corporation; Peabody Coal Company; and Wasson Coal Company.

On October 24, 1940, a petition of intervention, specifically praying for the same temporary relief granted to the original petitioner was filed by District Board 9, on behalf of Code Members in District 9. Old Ben Coal Corporation *et al.*, are Code Members in District 10. The coals produced by these interveners and by Code Members in District 9 are sold in Market Areas 42, 43, 45, and 46, and compete with other coals sold therein. The situation of interveners Old Ben Coal Corporation, *et al.*, and of Code Members in District 9 in respect to the competition of coal stored on docks in Market Areas 42, 43, 45, and 46, prior to October 1, 1940, by unregistered distributors, who are not subsidiaries, affiliates, or subject to the control of Code Members, and as to whom no specific sanctions for violations of the Effective Minimum Prices are presently available, is therefore essentially the same as that of Code Members in District 11 or intervener Carter Coal Company. It thus appears that there is a reasonable necessity for the extension to interveners Old Ben Coal Corporation, *et al.*, and to intervener District Board 9, of the same temporary relief granted to the original petitioner and to intervener Carter Coal Company.

Accordingly, on behalf of any of interveners Old Ben Coal Corporation, *et al.*, who authorize it so to do, and in order to retain business then enjoyed by said intervener Code Members, which is threatened by the competition of coal stored by an unregistered distributor on docks in Market Areas 42, 43, 45, and 46, prior to October 1, 1940, District Board 10 may on or before 3:30 p. m. of any business day except Saturday, and on or before 11 a. m. Saturday, telegraph to the Statistical Bureau for District 10, a "request" for a reduction, not to exceed 50 cents, in the effective minimum prices for a specified size and quality of coal produced by a designated mine, for shipment to a specified consumer in Market Areas 42, 43, 45 or 46.

Likewise, on behalf of any of its Code Members, who authorize it so to do, and

¹ 4 F.R. 2718, 5 F.R. 1067.

in order to retain business then enjoyed by said Code Members, which is threatened by the competition of coal stored by an unregistered distributor on the docks prior to October 1, 1940, District Board 9 may on or before 3:30 p. m. of any business day except Saturday, and on or before 11 a. m. Saturday, telegraph to the Statistical Bureau for District 9, a "request" for a reduction, not to exceed 50 cents, in the effective minimum prices for a specified size and quality of coal produced by a designated mine, for shipment to a specified consumer in Market Areas 42, 43, 45, or 46.

Upon the same day that such telegram (the "request") is dispatched, or by 11 a. m. of the succeeding business day, the District Board in question shall supply the statistical bureau with an affidavit of the Code Member, or other informed person, confirming the contents of the request. This affidavit shall specify how long the Code Member has enjoyed the business of the consumer in question, together with the latter's name and location, the type of equipment in which the coal is to be used, the amount of tonnage involved, the name and location of the unregistered dock operator who threatens to take the business, and the price at which it is believed that the business can be retained by the Code Member involved. If the name and locations of the unregistered dock operator are unknown to the producer, the affiant shall state, so far as he is able to do so, the probable identity and location of such person and the terms of his offer. Such affidavit, if based on knowledge of the affiant shall so state. If based on information and belief, the affidavit shall state specifically the source of the information, and also the circumstances upon the basis of which the affiant believes the information to be true.

Within twenty-four hours after the "request", or as soon thereafter as possible, the Director will notify the District Board in question by telegram whether or not the requested reduction may be made, a copy of which will be made available for inspection in this proceeding. If no such telegram is delivered to the offices of the District Board in question within forty-eight hours after the "request", the "request" is automatically granted and the District Board may advise the Code Member to make the reduction as requested. The specifications of time herein exclude Saturday afternoons, Sundays and legal holidays.

Temporary relief as indicated herein is accordingly granted to interveners Old Ben Coal Corporation, *et al.*, and to intervener District Board 9 effective forthwith.

Dated: October 30, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4680; Filed, October 31, 1940; 3:54 p. m.]

[Docket No. FD-A-1]

PETITION OF DISTRICT BOARD NO. 11 FOR RELIEF IN RESPECT TO COMPETITION BETWEEN DISTRICT NO. 11 CODE MEMBERS AND VARIOUS VENDORS OF EXISTING STOCKS OF COAL ON DOCKS LOCATED ON LAKE SUPERIOR AND LAKE MICHIGAN, AND RELATED MATTERS, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FURTHER CONTINUING HEARING

It appearing to the Director appropriate and proper that the above-entitled matter, heretofore continued until November 7, 1940, should be further continued;

It is ordered, That the continued hearing in said matter be postponed from November 7, 1940, until 10 o'clock in the forenoon of December 3, 1940, before the Examiner heretofore designated, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day, the Chief of the Records Section in room 502 will advise as to the room in which such hearing will be held.

Dated: October 30, 1940.

[SEAL]

H. A. GRAY,
Director.

[F. R. Doc. 40-4679; Filed, October 31, 1940; 3:54 p. m.]

[Docket No. A-109]

PETITION OF DISTRICT BOARD 14 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party:

It is ordered, that a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held at 10 o'clock in the forenoon on November 13, 1940, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed

relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 1, 1940.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter referred to, located in District 14 for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

It is further ordered, That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith the coals referred to in the schedule hereto annexed, marked "Temporary Supplement No. 3 to Schedule of Effective Minimum Prices for District No. 14 Truck Shipments", and made part hereof, shall be subject to minimum prices as provided in said Temporary Supplement No. 3.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated October 25, 1940.

[SEAL]

H. A. GRAY,
Director.

TEMPORARY SUPPLEMENT NO. 3 TO SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14—TRUCK SHIPMENTS

Prices in Cents Per Net Ton for Shipment Into All Market Areas

Code member index			Mine index No.	Mine	County	Sub-district No.	Prices and size group numbers																			
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Carbon Colliery Company (William Elder)			438	Colliery		9																				
Johnson-Simpson Coal Co. (R. T. Johnson)			437	J & S		2																				
Brewster & Woods Coal Company (B. F. Woods)			439	#1		3																				
Bokoshe Coal Company (Chester R. Oglesby)			200	Bokoshe Coal Co.		7																				
Burnwell Coal Co. (D. A. Gerardi)			36	Burwell		7																				

NOTE.—The material in this Temporary Supplement No. 3 is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto. This supplement contains temporary prices issued in accordance with order of the Director, dated October 25, 1940, in Docket No. A-109. Effective forthwith and continuing until further ordered.

[P. R. Doc. 40-4685; Filed, November 1, 1940; 9:37 a. m.]

[Docket Nos. A-36, Part II; A-147]

PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

An amendment dated October 11, 1940, to an original petition, dated September 23, 1940, Docket A-36—Part II, and an original petition, dated October 11, 1940, Docket A-147, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That the part of the matter in Docket A-36 with which said amendment to the original petition is concerned, and which has been designated as Docket A-36—Part II, and the matter in Docket A-147, be consolidated for hearing, under the applicable provisions of said Act and the rules of the Division with the matters in Dockets A-44 and A-115, and that the hearing on those matters be held on December 2, 1940, at 10 a. m. at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C.

On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to these proceedings may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief requested

is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 26, 1940.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter named, located in District 11, for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above-entitled matters and any orders therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of intervention or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

It is further ordered, That, a reasonable showing of the necessity thereof having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be and the same is hereby granted, as follows: Commencing forthwith, the coals of Beech Mine, Mine Index 110 (Beech Coal Company) shall be and hereby are priced in all sizes for all shipments except truck, and for movement to all market areas, the same as the coals of those mines which are included in Price Group No. 9 and Freight Origin Group No. 61 of the Schedule of Effective Minimum Prices for District No. 11, for All Shipments Except Truck, and shall be accorded the same adjustments in f. o. b. mine prices on account of differences in freight rates as are provided in said schedule for mines taking the same freight rate; for shipment to railroads for locomotive fuel the same as the coals of the mines with Mine Index Nos. 3, 10, 19, 20, 21, 33, 38, 40, 46, 51, 52, 53, 60, 63, 65, 70, 71, 72, 73, 78, 85, 91, 101 as set forth in the aforementioned schedule; and

are included in Price Group No. 16 and Freight Origin Group No. 60 of the Schedule of Effective Minimum Prices for District No. 11, for All Shipments Except Truck, and shall be accorded the same adjustments in f. o. b. mine prices on account of differences in freight rates as are provided in said schedule for mines taking the same freight rate; for shipment to railroads for locomotive fuel the same as the coals of the mines with Mine Index Nos. 1, 2, 3, 23, 30, 38, 56, 68, 70, 73 as set forth in the aforementioned schedule; and

Commencing forthwith, the coals of Queen No. 2 Mine, Mine Index 116 (Price & Son, David Elvin) shall be and hereby are priced in all sizes for all shipments except truck, and for movement to all market areas, the same as the coals of those mines which are included in Price Group No. 9 and Freight Origin Group No. 61 of the Schedule of Effective Minimum Prices for District No. 11, for All Shipments Except Truck, and shall be accorded the same adjustments in f. o. b. mine prices on account of differences in freight rates as are provided in said schedule for mines taking the same freight rate; for shipment to railroads for locomotive fuel the same as the coals of the mines with Mine Index Nos. 3, 10, 19, 20, 21, 33, 38, 40, 46, 51, 52, 53, 60, 63, 65, 70, 71, 72, 73, 78, 85, 91, 101 as set forth in the aforementioned schedule; and

TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 11—TRUCK SHIPMENTS—COAL.
Prices in Cents Per Net Ton for Shipment Into All Market Areas—Continued

Code member index—name	Mine index No.	Mine	Seam	Prices and size group numbers																																		
				1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	
WARRICK COUNTY																																						
Cain & Anderson (Willis Cain)	1008	Phillips		250	245	240	230	225	220	180	185	175	170	150	140																							
Fortune & Sons, William (William Fortune)	923	Graham		250	245	240	230	225	220	180	185	175	170	150	140																							
Ingle Coal Company	115	Ditney Hill		250	245	240	230	225	220	180	185	175	170	150	140																							
Parker & Cox (Albert E. Cox)	817	Hercules		250	245	240	230	225	220	180	185	175	170	150	140																							
Robertson, Frank	798	Robinson		250	245	240	230	225	220	180	185	175	170	150	140																							
Spillman, Marvin	1004	Sharon		250	245	240	230	225	220	180	185	175	170	150	140																							
Woolsey, Shirley	1003	Woolsey Rib		250	245	240	230	225	220	180	185	175	170	150	140																							

NOTE.—The material in this Temporary Schedule is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto. This temporary schedule is annexed to and made part of Order dated October 28, 1940, granting temporary relief in Docket Nos. A-36, Part II, and A-147.

[F. R. Doc. 40-4684; Filed, November 1, 1940; 9:35 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5931]

IN RE APPLICATION OF PAN-AMERICAN BROADCASTING SYSTEM, INC. (NEW)

Dated, February 21, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, Hollywood, Fla.; operating assignment specified: frequency, 1420 kc.; power, 250 w. night, 250 w. day; hours of operation, unlimited

[File No. B3-P-2768]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.

2. To determine whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate the proposed station.

No. 215—2

reference to construct and operate a broadcast station.

4. To determine whether the applicant has made false statements to the Commission in its application.

5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure. The applicant's address is as follows:

Pan-American Broadcasting System, Inc.,
 Att: David Sholtz,
 400 American Bank Building,
 Miami, Florida.

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL] T. J. SLOWIE,
 Secretary.

[F. R. Doc. 40-4691; Filed, November 1, 1940; 11:38 a. m.]

IN RE APPLICATION OF KEYS BROADCASTING COMPANY (NEW)

[Docket No. 5932]

Dated, February 23, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, Key West, Florida; operating assignment specified: frequency, 1310 kc.; power, 250 watts night, 250 watts day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2773]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.

2. To determine whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate a broadcast station.

4. To determine whether the applicant has made false statements to the Commission in its application.

5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of

§ 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Keys Broadcasting Company
% William R. Porter
First National Bank Building
Key West, Florida

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4692; Filed, November 1, 1940;
11:38 a. m.]

[Docket No. 5933]

IN RE APPLICATION OF ATLANTIC BROADCASTING CORP. (NEW)

Dated, March 6, 1940; for, construction permit; class of service, broadcast; class of station, broadcast; location, Miami, Florida; operating assignment specified: Frequency, 1280 kc.; power, 500 watts night, 1kw. day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2796]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.
2. To determine whether the applicant is financially qualified to construct and operate the proposed station.
3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate a broadcast station.
4. To determine whether the applicant has made false statements to the Commission in its application.
5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Atlantic Broadcasting Corp.
400 American Bank Bldg.
Miami, Florida.

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4693; Filed, November 1, 1940;
11:38 a. m.]

[Docket No. 5934]

IN RE APPLICATION OF CENTRAL BROADCASTING CORP. (NEW)

Dated, March 6, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Sanford, Florida; operating assignment specified: Frequency, 1370 kc.; power, 250 w. night; 250 w. day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2800]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.
2. To determine whether the applicant is financially qualified to construct and operate the proposed station.
3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate a broadcast station.
4. To determine whether the applicant has made false statements to the Commission in its application.
5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Central Broadcasting Corporation,
% David Sholtz,
400 American Bank Building,
Miami, Florida.

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4694; Filed, November 1, 1940;
11:38 a. m.]

[Docket No. 5935]

IN RE APPLICATION OF SEABOARD BROADCASTING CORP. (NEW)

Dated, March 12, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Tampa, Florida; operating assignment specified: Frequency, 1530 kc. (1590 under NARA); power, 1 kw. night, 1 kw. day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2813]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.
2. To determine whether the applicant is financially qualified to construct and operate the proposed station.
3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate a broadcast station.
4. To determine whether the applicant has made false statements to the Commission in its application.
5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Seaboard Broadcasting Corporation,
% David Sholtz,
400 American Bank Building,
Miami, Florida.

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4695; Filed, November 1, 1940;
11:39 a. m.]

[Docket No. 5936]

IN RE APPLICATION OF ATLANTIC BROADCASTING CORPORATION. (NEW)

Dated, April 10, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, West Palm Beach, Fla.; operating assignment specified: Frequency, 780 kc.; power, 500 w. night, 1 kw. day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2853]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.
2. To determine whether the applicant is financially qualified to construct and operate the proposed station.
3. To determine whether the principal officers, directors and stockholders of the applicant are qualified by reason of character, training and previous experience to construct and operate a broadcast station.
4. To determine whether the applicant has made false statements to the Commission in its application.
5. To determine whether the applicant, its officers, directors and stockholders intend to construct and actually operate and control the stations proposed in this and other pending applications.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Atlantic Broadcasting Corporation,
400 American Bank Bldg.,
Miami, Florida.

Dated at Washington, D. C. October 31, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4696; Filed, November 1, 1940;
11:39 a. m.]

[Docket No. 5937]

IN RE APPLICATION OF CARL SHOLTZ (NEW)

Dated, February 6, 1940; for, construction permit; class of service, broadcast; class of station, broadcast; location, Ft. Pierce, Florida; operating assignment specified: Frequency, 1420 kc.; power, 250 w. night, 250 w. day; hours of operation, unlimited

NOTICE OF HEARING

[File No. B3-P-2748]

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant is legally and technically qualified to construct and operate the proposed station.
2. To determine whether the applicant is financially qualified to construct and operate the proposed station.
3. To determine whether the applicant is qualified by reason of character, training and previous experience to construct and operate a broadcast station.
4. To determine whether the applicant intends to construct and actually operate and control the proposed station.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Carl Sholtz,
139 N. E. First Street,
Miami, Florida.

Dated at Washington, D. C., October 31, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 40-4697; Filed, November 1, 1940;
11:39 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

IN THE MATTER OF JOHN J. MONAGHAN, DOING BUSINESS AS JOHN J. MONAGHAN & Co., 811 LINDEN STREET, ALLENTOWN, PENNSYLVANIA

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

Appearances: John J. Prendergast, Esq., of the New York Regional Office, for the Trading and Exchange Division.

This proceeding was commenced under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration as a dealer of John J. Monaghan, doing business as John J. Monaghan & Co., should be revoked or suspended.

Pursuant to an order of the Commission dated September 3, 1940, and notice served upon the registrant, the hearing in this matter was held before a trial examiner in New York, New York, on October 4, 1940. The order for hearing alleged that the registrant had willfully violated Rule X-15B-2 adopted by the Commission pursuant to sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934, in failing to report that its registration as a dealer in securities in the State of Pennsylvania was revoked by the Pennsylvania Securities Commission on May 9, 1940.

The registrant acknowledged notice of the hearing and consented to revocation of registration. We find that the registration of this registrant as a dealer in securities in the State of Pennsylvania was revoked by the Pennsylvania Securities Commission on May 9, 1940; that registrant willfully violated Rule X-15B-2 in failing to report this revocation; and that revocation of registration of this registrant under Section 15 (b) of the Securities Exchange Act of 1934 will be in the public interest.

It is ordered, Pursuant to section 15 (b) of the Securities Exchange Act of 1934, that the registration of John J. Monaghan, doing business as John J. Monaghan & Co., be and it hereby is revoked.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4698; Filed, November 1, 1940;
11:44 a. m.]

IN THE MATTER OF JESSE MARVIN STRONG, 223 MAIN STREET, HUDSON FALLS, NEW YORK

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

Appearances: Arthur G. Klein, Esq., of the New York Regional Office, for the Trading and Exchange Division.

This proceeding was commenced under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration of Jesse Marvin Strong as a dealer should be revoked or suspended.

Pursuant to an order of the Commission dated September 5, 1940, and notice served upon the registrant, the hearing in this matter was held before a trial examiner in New York, New York, on October 1, 1940. The order for hearing alleged that the registrant had been convicted on March 28, 1938, of a felony involving the purchase of securities and arising out of the conduct of the business of a broker and dealer; that the registrant had been permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Albany, entered April 18, 1940, from engaging in the sale of securities in the State of New York; and that the registrant had willfully violated Rule X-15B-2 adopted by the Commission pursuant to sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934.

The registrant acknowledged notice of the hearing and consented to revocation of registration. We find that the registrant was convicted on March 28, 1938, of a felony involving the purchase of securities and arising out of the conduct of the business of a broker and dealer; that the registrant is permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Albany, entered April 18, 1940, from engaging in the sale of securities in the State of New York; that registrant has willfully violated Rule X-15B-2; and that revocation of registration will be in the public interest.

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, that the registration of Jesse Marvin Strong be and it hereby is revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4699; Filed, November 1, 1940;
11:44 a. m.]

IN THE MATTER OF WINDSOR SECURITIES
COMPANY, INC., 1002 M & T BANK
BUILDING, BUFFALO, NEW YORK

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

Appearances: Arthur G. Klein, Esq., of the New York Regional Office, for the Trading and Exchange Division.

This proceeding was commenced under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration of Windsor Securities Company, Inc., as a broker should be revoked or suspended.

Pursuant to an order of the Commission dated September 3, 1940, and notice served upon the registrant, the hearing in this matter was held before a trial examiner in New York, New York, on October 5, 1940. The order for hearing alleged that Olive M. Wholahan, president of registrant, was convicted on May 31, 1940, of a felony arising out of the conduct of the business of a broker and dealer; that said registrant and said Olive M. Wholahan are permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Erie, entered February 15, 1936, from engaging in the sale of securities in the State of New York; and that registrant has willfully violated Rule X-15B-2 adopted by the Commission pursuant to sections 15 (b), 17 (a) and 23 (a) of the Securities Exchange Act of 1934.

The registrant by Olive M. Wholahan, president, treasurer, and a director of registrant, acknowledged notice of the hearing and consented to revocation of registration. We find that Olive M. Wholahan, president of registrant, was convicted in the County Court of Erie County, New York, on May 31, 1940, of a felony arising out of the conduct of the business of a broker and dealer; that said registrant and said Olive M. Wholahan are permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Erie, entered February 15, 1936, from engaging in the sale of securities in the State of New York; that registrant has willfully violated Rule X-15B-2; and that revocation of registration will be in the public interest.

It is ordered, Pursuant to Section 15 (b) of the Securities Exchange Act of 1934, that the registration of Windsor Securities Company, Inc., be and it hereby is revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4700; Filed, November 1, 1940;
11:44 a. m.]

IN THE MATTER OF RALPH K. SHIPTON &
CO., INC., 413 STATE TOWER BUILDING,
SYRACUSE, NEW YORK

FINDINGS AND ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 29th day of October, A. D. 1940.

Appearances: Arthur G. Klein, Esq., of the New York Regional Office, for the Trading and Exchange Division.

This proceeding was commenced under section 15 (b) of the Securities Exchange Act of 1934 to determine whether the registration of Ralph K. Shipton & Co., Inc., as a broker and dealer should be revoked or suspended.

Pursuant to an order of the Commission dated September 3, 1940, and notice

served upon the registrant, the hearing in this matter was held before a trial examiner in New York, New York, on October 2, 1940. The order for hearing alleged that Ralph K. Shipton, president of registrant, was convicted on June 10, 1940, of a felony arising out of the conduct of the business of a broker and dealer; that said registrant and said Ralph K. Shipton are permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Onondaga, entered May 1, 1940, from engaging in certain conduct and practices in connection with the purchase and sale of securities; and that registrant had willfully violated Rule X-15B-2 adopted by the Commission pursuant to sections 15 (b), 17 (a), and 23 (a) of the Securities Exchange Act of 1934.

The registrant by Ralph K. Shipton, president, treasurer and director of registrant, acknowledged notice of the hearing and consented to revocation of its registration. We find that said Ralph K. Shipton was convicted on June 10, 1940, of a felony arising out of the conduct of the business of a broker and dealer; that said registrant and said Ralph K. Shipton are permanently enjoined by decree of the Supreme Court of the State of New York in and for the County of Onondaga, entered May 1, 1940, from engaging in certain conduct and practices in connection with the purchase and sale of securities; and that registrant willfully violated Rule X-15B-2; and that revocation of registration will be in the public interest.

It is ordered, Pursuant to section 15 (b) of the Securities Exchange Act of 1934, that the registration of Ralph K. Shipton & Co., Inc., be and it hereby is revoked.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4701; Filed November 1, 1940;
11:44 a. m.]

[File No. 34-43]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF INDIANA; CENTRAL INDIANA POWER COMPANY; TERRE HAUTE ELECTRIC COMPANY, INC.

ORDER TO DISMISS MOTION PURSUANT TO PUBLIC UTILITY HOLDING COMPANY ACT OF 1935—SECTION 12 (e)

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

The Commission having heard argument on a motion by counsel to the Public Utilities Division to dismiss the within proceedings;

There having subsequently been filed certain amendments to the application and declaration herein and certain related applications and declarations bearing File No. 70-181;

The Commission having duly considered the matter and having filed its Memorandum Opinion herein:

It is ordered, That the motion to dismiss be, and the same hereby is, denied without prejudice;

And it is further ordered, That the hearing in this matter be resumed before Charles S. Lobingier as presiding officer, at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., at 10:00 A. M. on the 25th day of November, 1940. By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4706; Filed, November 1, 1940;
11:45 a. m.]

[File Nos. 34-43, 70-181, 59-16]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF INDIANA; TERRE HAUTE ELECTRIC COMPANY, INC.; CENTRAL INDIANA POWER COMPANY. IN THE MATTER OF HUGH M. MORRIS, TRUSTEE OF THE ESTATE OF MIDLAND UNITED COMPANY; PUBLIC SERVICE COMPANY OF INDIANA; DRESSER POWER CORPORATION; TERRE HAUTE ELECTRIC COMPANY, INC.; CENTRAL INDIANA POWER COMPANY; NORTHERN INDIANA POWER COMPANY. IN THE MATTER OF HUGH M. MORRIS, TRUSTEE OF THE ESTATE OF MIDLAND UNITED COMPANY; PUBLIC SERVICE COMPANY OF INDIANA; CENTRAL INDIANA POWER COMPANY; NORTHERN INDIANA POWER COMPANY; TERRE HAUTE ELECTRIC COMPANY, INC., RESPONDENTS

ORDER CONSOLIDATING HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

Public Service Company of Indiana, Terre Haute Electric Company, Inc., and Central Indiana Power Company, having filed a joint application, as amended, pursuant to section 12 (e) of the Public Utility Holding Company Act of 1935 and Rule U-12E-4 adopted thereunder for a report on a plan of consolidation, as amended, and a joint declaration, as amended, pursuant to section 12 (e) of the Act and Rules U-12E-3 (d) and U-12E-5 in respect of the solicitation of proxies and consents of shareholders to the said plan of consolidation as amended (File No. 34-43); and

Hugh M. Morris, Trustee of the Estate of Midland United Company, Public Service Company of Indiana, Dresser Power Corporation, Terre Haute Electric Company, Inc., Central Indiana Power Company, and Northern Indiana Power Company, having filed applications and declarations pursuant to Sections 6, 7, 9, 10, 12 (d), and 12 (f) of the Act and Rules U-7, U-8, U-9C-1, U-9C-2, U-9C-3,

U-12C-1, U-12D-1, and U-12F-1 with respect to the carrying out of the said plan of consolidation, as amended (File No. 70-181); and

The Commission, having instituted proceedings pursuant to Section 11 (b) (2) of the Act to determine (1) what action, if any, is necessary and shall be required to be taken by Hugh M. Morris, Trustee of the Estate of Midland United Company, Public Service Company of Indiana, Central Indiana Power Company, Northern Indiana Power Company, and/or Terre Haute Electric Company, Inc., to insure that the corporate structures and/or continued existence of Public Service Company of Indiana, Central Indiana Power Company, Northern Indiana Power Company and Terre Haute Electric Company, Inc., do not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among the security holders, of the holding company system of Hugh M. Morris, Trustee of the Estate of Midland United Company; and (2) what action, if any, is necessary and shall be required to be taken by Hugh M. Morris, Trustee of the Estate of Midland United Company, Public Service Company of Indiana, Central Indiana Power Company and/or Terre Haute Electric Company, Inc., to insure that voting power is not unfairly or inequitably distributed among the respective security holders of Public Service Company of Indiana, Central Indiana Power Company and Terre Haute Electric Company, Inc., File No. 59-16; and

It appearing to the Commission that the matters are related and involve common questions of law and fact; that evidence offered in respect of each of the said matters may have a bearing on the other matters; and that substantial savings in time, effort, and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter, and so that evidence adduced in each matter may stand as evidence in the others for all purposes;

It is ordered, That the hearings on said matters be, and they hereby are, consolidated. The Commission reserves the right, if at any time it may appear conducive to an orderly and economic disposition of any proceeding or proceedings herein, to order a separate hearing concerning such proceeding or proceedings, to close the record with respect to any of the matters, or to take action on any of the matters prior to the closing of the record on the other matters.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4704; Filed, November 1, 1940;
11:45 a. m.]

[File No. 59-16]

IN THE MATTER OF HUGH M. MORRIS, TRUSTEE OF THE ESTATE OF MIDLAND UNITED COMPANY, PUBLIC SERVICE COMPANY OF INDIANA, CENTRAL INDIANA POWER COMPANY, NORTHERN INDIANA POWER COMPANY, TERRE HAUTE ELECTRIC COMPANY, INC., RESPONDENTS

NOTICE OF AND ORDER FOR HEARING PURSUANT TO SECTION 11 (b) (2) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

The Commission having examined the corporate structures of the registered holding company, Hugh M. Morris, Trustee of the Estate of Midland United Company (hereinafter sometimes termed "United"), and of the subsidiary companies thereof, particularly Public Service Company of Indiana (hereinafter sometimes termed "Public Service"), Central Indiana Power Company (hereinafter sometimes termed "Central"), Northern Indiana Power Company (hereinafter sometimes termed "Northern"), and Terre Haute Electric Company, Inc. (hereinafter sometimes termed "Terre Haute"), the relationships of these companies in the holding company system of United, the character of the interests thereof, and the properties owned or controlled thereby, and the Commission having reasonable grounds to believe that:

(1) Hugh M. Morris, Trustee of the Estate of Midland United Company, is a registered holding company, the said Hugh M. Morris having been appointed Trustee of the Estate of Midland United Company by the District Court of the United States for the District of Delaware in a proceeding under the Bankruptcy Act in that court entitled "In the Matter of Midland United Company, Debtor, in proceedings for reorganization, No. 1073";

(2) As of March 31, 1940, the capitalization of Public Service, a public utility company organized under the laws of the State of Indiana, consisted of the following securities:

Long Term Debt:

		Percent
First Mortgage Bonds, Series A, 4%, due Sept. 1, 1969.....	\$38,000,000	44.44
Serial Debentures, 3% %, maturing semi-annually to Sept. 1, 1949.....	10,000,000	11.69
	48,000,000	56.13

Capital Stock:

Cumulative Prior Preferred:		
\$7 Series—80,577 shares outstanding (stated value \$97.43 per share).....	7,850,339	9.18

Capital Stock—Continued		
Cumulative Prior Preferred—Continued		
\$6 Series—13,000 shares outstanding (stated value \$75.00 per share).....	\$975,000	1.14
Cumulative Preferred—\$6 Series—70,569 shares outstanding (stated value \$92.94 per share).....	6,558,530	7.67
	15,383,869	17.99
Common—442,500 shares outstanding (stated value \$50 per share).....	22,125,000	25.88
Total Capitalization.....	85,508,869	100.00

(3) As of March 31, 1940, United owned 281,049 shares of the common stock of Public Service, and Central owned 161,451 shares, the balance of the common stock of Public Service. As of the same date United also owned 11,937 $\frac{3}{4}$ shares of Public Service Cumulative Prior Preferred Stock, \$6 Series;

(4) As of March 31, 1940, the deficit of Public Service amounted to \$7,951,887.14;

(5) No dividends have been paid on the Cumulative Prior Preferred Stock of Public Service since October 16, 1933. As of March 31, 1940, the accumulated unpaid dividends on the Cumulative Prior Preferred Stock, \$7 Series, amounted to \$46.37 per share or a total of \$3,736,758; as of the same date the accumulated unpaid dividends on the Cumulative Prior Preferred Stock, \$6 Series, amounted to \$39.75 per share or a total of \$516,750;

(6) No dividends have been paid on the Cumulative Preferred, \$6 Series, of Public Service since February 15, 1933. As of March 31, 1940, accumulated unpaid dividends amounted to \$43.00 per share or a total of \$3,034,467;

(7) By reason of the failure to pay preferred dividends, as described in paragraphs (5) and (6) above, all of the prior preferred and preferred stock of Public Service has acquired voting rights as prescribed by the Articles of Reorganization of that company, namely, one vote per share of stock;

(8) As of March 31, 1940, the distribution of voting power among the various classes of stockholders of Public Service was as follows:

	Votes	Percent
Cumulative Prior Preferred \$7 Series.....	80,577	13.28
Cumulative Prior Preferred \$6 Series.....	13,000	2.14
Cumulative Preferred \$6 Series.....	70,569	11.63
Common.....	442,500	72.95
Total.....	606,646	100.00

(9) As of March 31, 1940, the capitalization of Central, a holding company and public utility company organized under the laws of the State of Indiana, consisted of the following securities:

Long Term Debt:		
Collateral Notes, 2.73%, maturing in equal annual instalments to 1950.....	\$430,000	2.32
Promissory Note, 6%, due Aug. 31, 1944.....	447,655	2.41
	877,655	4.73
Capital Stock (par value \$100):		
Cumulative Preferred: 7% Series—56,240 $\frac{1}{2}$ shares.....	5,624,017	30.32
6% Series—138 shares.....	13,800	.07
Common—120,330 shares.....	12,033,000	64.88
Total Capitalization.....	18,548,472	100.00

(10) As of March 31, 1940, United owned all of the outstanding common stock of Central. Upon the liquidation of Traction Light and Power Company, a subsidiary of United, United will become the direct owner of the Promissory Note 6% due August 31, 1944, in the principal amount of \$447,655;

(11) As of March 31, 1940, the deficit of Central amounted to \$3,941,262.76;

(12) No dividends have been declared or paid on the preferred stock of Central since September 1, 1932. As of March 30, 1940, the accumulated unpaid dividends on the Cumulative Preferred 7% Series amounted to \$53.08 per share or a total of \$2,985,415, and the accumulated unpaid dividends on the Cumulative Preferred 6% Series amounted to \$45.00 per share or a total of \$6,210;

(13) The preferred stockholders of Central have no vote and are not entitled to any vote under the Articles of Reorganization of Central;

(14) As of March 31, 1940, the capitalization (and notes payable to Central) of Northern, a public utility company organized under the laws of the State of Indiana, consisted of the following securities:

Long Term Debt:		
First Mortgage Bonds—Series "A"—4 $\frac{1}{4}$ % due January 1, 1965.....	\$10,038,000	46.49
Serial Notes—3% maturing annually to February 27, 1946.....	600,000	2.78
	10,638,000	49.27
Notes payable to Central.....	4,536,423	21.01
Capital Stock:		
Cumulative Preferred Stock \$100 par value—7% Series—8,460 shares outstanding.....	846,000	3.92
Common Stock—no par value—57,163 shares outstanding.....	5,571,100	25.80
	6,417,100	29.72
Total Capitalization and Notes Payable to Central.....	21,591,523	100.00

(15) As of March 31, 1940, Central owned all the issued and outstanding preferred and common stock of Northern, and also \$538,000 principal amount of Northern's First Mortgage Bonds, Series A, 4 $\frac{1}{4}$ %, due January 1, 1965, and \$4,536,423 principal amount of Northern's obligations consisting of demand notes approximating \$2,676,835 and a note due March 1, 1965 in the approximate amount of \$1,859,588;

(16) Central is engaged to a limited extent in the public utility business in the State of Indiana. Its principal business is that of a holding company, holding the securities of Public Service and Northern mentioned above as owned by Central, but performing no other functions for Public Service or Northern;

(17) As of March 31, 1940, the capitalization of Terre Haute, a public utility company organized under the laws of the State of Indiana, consisted of the following securities:

Long Term Debt:		
First Consolidated Mortgage 5% Gold Bonds, due May 1, 1944.....	\$3,808,000	
Capital Stock (par value \$100):		
6% Cumulative Preferred—10,000 shares outstanding.....	1,000,000	
Common Stock—20,000 shares outstanding.....	2,000,000	
Total capitalization.....	6,808,000	

(18) As of March 31, 1940, United owned all of the common stock of Terre Haute and also 1468 shares of Terre Haute 6% Cumulative Preferred Stock.

(19) Terre Haute Traction and Light Company, the predecessor of Terre Haute, leased all its properties to Terre Haute, Indianapolis, and Eastern Traction Company under a 999-year lease dated March 25, 1907, and Public Service succeeded to the interest of Terre Haute, Indianapolis, and Eastern Traction Company in said lease on July 28, 1931, as the result of the purchase at a receiver's sale of said interest.

(20) Public Service, as successor lessee, has assumed all the terms, conditions, and covenants of the lessee under the said lease dated March 25, 1907.

(21) The said lease provides, among other things:

(a) The lessee will pay as an annual rental an amount sufficient to pay (i) the interest on Terre Haute's bonds, (ii) a 6% dividend on its preferred stock, and (iii) a 5% dividend on its common stock plus (iv) \$1,000 for the maintenance of the lessor's organization and for providing suitable offices for its officers and directors;

(b) The lessee covenants at its own cost and expense to operate the leased property;

(c) The lessee covenants during the existence of the lease to pay, satisfy, and discharge all taxes, rents, charges, licenses, and easements that have been or

may be lawfully imposed in any way upon the lessor;

(d) The lessee covenants during the said term that it will renew, repair, and replace the leased property so as to maintain and keep the said property in as good order, repair, and condition as such property was at the time the lease was made and that it will from time to time, at its own expense, make all extensions, additions, alterations, improvements, renewals, and betterments which may be necessary or proper in reference to the leased property, subject to the provision that upon the expiration of the lease the lessor shall pay to the lessee the actual value at the time of such expiration of all additions, betterments, improvements, and renewals made by the lessee to the leased property;

(e) The lessee covenants to insure and keep insured such parts of the leased property as are insurable;

(f) The lessee covenants to perform all obligations imposed upon the lessor by law or by the provisions of its grants from or contracts with any State, city, town, or county in relationship to the leased properties, and that it will not do or suffer to be done or omitted any act or thing which shall be ground for forfeiture of any franchises, rights, privileges, or easements of the lessor.

(g) The lessee covenants to assume all contracts and other obligations of the lessor including the performance and observance of all the covenants and agreements of the lessor with respect to its outstanding bonds except to pay the principal of said bonds; and

(h) The lessee covenants, upon the maturity of the lessor's outstanding bonds, to do all acts and things necessary or proper to be done on its part to obtain any extension, renewal, or refunding of said bonds which is approved by the lessor.

(22) The properties of Terre Haute and of Public Service are managed and operated as a unit without regard to the separate ownership of said properties.

(23) Part of the property covered by said lease consisted of transportation property which has been abandoned or is now in the process of abandonment by Public Service.

(24) As of March 31, 1940, Terre Haute carried on its balance sheet as an asset an item of "Transportation property abandoned subsequent to July 1, 1931, or in process of abandonment (stated at estimated cost)—ultimate disposition not known pending determination of liability, if any, with respect thereto, of Public Service Company of Indiana as holder of lessee's interest in the lease" in the amount of \$2,821,505.35.

(25) As of March 31, 1940, the balance sheet of Public Service showed no corresponding liability and a note thereto denies any such liability.

(26) As of March 31, 1940, Terre Haute had made no provision for the retirement or depreciation of its properties.

(27) Terre Haute has no business other than that of owning and leasing its properties as described above.

(28) Terre Haute has no income other than that which it receives under the provisions of the said lease.

(29) The preferred stockholders of Terre Haute have no vote under the Articles of Association and Reorganization of Terre Haute.

And the Commission having reason to believe that:

(30) The corporate structures and/or continued existence of Public Service, Central, Northern, and Terre Haute unduly and unnecessarily complicate the structure, and unfairly and inequitably distribute voting power among the security holders, of the holding company system of United.

(31) Voting power is unfairly and inequitably distributed among the respective security holders of Public Service, Central, and Terre Haute.

Wherefore, it is ordered, That, pursuant to section 11 (b) (2) of the Public Utility Holding Company Act of 1935, a hearing shall be held at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue Northwest, Washington, D. C., on the 25th day of November 1940, at 10 o'clock in the forenoon of that day, to determine (1) whether the allegations of paragraphs numbered 1 through 31, inclusive, are true and accurate; (2) what action, if any, is necessary and shall be required to be taken by United, Public Service, Central, Northern, and/or Terre Haute to insure that the corporate structures and/or continued existence of Public Service, Central, Northern, and Terre Haute do not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among the security holders, of the holding company system of United; and (3) what action, if any, is necessary and shall be required to be taken by United, Public Service, Central, and/or Terre Haute to insure that voting power is not unfairly or inequitably distributed among the respective security holders of Public Service, Central and Terre Haute.

It is further ordered, That Charles S. Lobingier or any officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a Trial Examiner under the Commission's Rules of Practice; and

It is further ordered, That the Secretary of the Commission shall serve notice of the aforesaid hearing by mailing a copy of this order by registered mail to Hugh M. Morris, Trustee of the Estate of Midland United Company, Public Service Company of Indiana, Central Indiana Power Company, Northern Indiana Power Company, and Terre Haute Electric Company, Inc., and to the Clerk of the Dis-

trict Court of the United States for the District of Delaware, not less than twenty days prior to the date hereinbefore fixed as the date of hearing; and that notice of said hearing is hereby given to Hugh M. Morris, Trustee of the Estate of Midland United Company, Public Service Company of Indiana, Terre Haute Electric Company, Inc., Central Indiana Power Company, Northern Indiana Power Company, the security holders and consumers of said companies, all States, municipalities, and political divisions of States within which are located any of the utility assets of any of said companies, or under the laws of which any of said companies are incorporated, all State commissions, State security commissions and all agencies, authorities, or instrumentalities of any one or more States, municipalities or other political subdivisions having jurisdiction over any of said companies or over any of the businesses, affairs or operations of any of said companies; that such notice shall also be given by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935; and that further notice be given to all persons by publication of this order in the FEDERAL REGISTER not later than twenty days prior to the date hereinbefore fixed as the date of hearing; and

It is ordered, That any person proposing to intervene in these proceedings shall file with the Secretary of the Commission on or before the 20th day of November 1940, his request or application therefor as provided by Rule XVII of the Rules of Practice.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4702; Filed, November 1, 1940;
11:45 a. m.]

[File No. 70-165]

IN THE MATTER OF WISCONSIN MICHIGAN
POWER COMPANY, THE NORTH AMERICAN
COMPANY

ORDER GRANTING AND APPROVING JOINT AP-
PLICATION PURSUANT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of October, A. D. 1940.

The North American Company, a registered holding company, and Wisconsin Michigan Power Company, its subsidiary, having filed a joint application whereby Wisconsin Michigan Power Company pursuant to section 6 of the Public Utility Holding Company Act of 1935 requests an exemption from the provisions of section 6 (a) of said Act with respect to the issuance and sale of 28,750 shares of its common stock of a par value of \$20 per share to The North American Company for cash at par, the aggre-

gate purchase price being \$575,000, and whereby The North American Company requests approval under Section 10 of said Act of its acquisition of said stock at said price; and

Said applications having been filed on September 28, 1940, and having been amended on October 15, 1940, and notice of such filing having been duly given in the form and manner prescribed by Rule U-8 promulgated under said Act, and this Commission not having received a request for a hearing with respect to said applications within the period specified within said notice, or otherwise, and not having ordered a hearing thereon; and

This Commission deeming it appropriate in the public interest and in the interest of investors and consumers (1) to grant the application, as amended, pursuant to section 6 (b) of said Act and finding with respect thereto that the requirements of section 6 (b) of said Act are satisfied; and (2) to approve the application, as amended, pursuant to section 10 of said Act and finding with respect thereto that no adverse findings are necessary under section 10 (b) or section 10 (c) (1) of said Act and that the transaction involved has the tendency required by section 10 (c) (2) of said act;

It is hereby ordered, Pursuant to said Rule U-8 and the applicable provisions of said Act, and subject to the terms and conditions prescribed in Rule U-9 promulgated under said Act, that said application, as amended, pursuant to section 6 (b) of said Act be and the same is hereby granted forthwith; and that said application, as amended, pursuant to section 10 of said Act be and the same is hereby approved forthwith.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

Commissioner Healy dissenting for the reasons stated in his memorandum of April 1, 1940.

[F. R. Doc. 40-4705; Filed, November 1, 1940;
11:45 a. m.]

[File No. 70-181]

IN THE MATTER OF HUGH M. MORRIS,
TRUSTEE OF THE ESTATE OF MIDLAND
UNITED COMPANY, PUBLIC SERVICE COM-
PANY OF INDIANA, DRESSER POWER COR-
PORATION, TERRE HAUTE ELECTRIC COM-
PANY, INC., CENTRAL INDIANA POWER
COMPANY, NORTHERN INDIANA POWER
COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1940.

Applications and Declarations pursuant to the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the Rules of the Commission thereunder be held on November 25, 1940, at 10 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such date the hearing room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why such declarations shall become effective.

It is further ordered, That Charles S. Lobingier, or any other officer or officers of the Commission designated by it for the purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a Trial Examiner under the Commission's Rules of Practice;

Notice of such hearing is hereby given to such applicants or declarants and to any other persons whose participation in such proceedings may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding

shall file a notice to that effect with the Commission on or before November 20, 1940.

The matter concerned herewith is in regard to the authorization of declarants and applicants to effect a proposed plan of consolidation, as amended, of Public Service Company of Indiana, Dresser Power Corporation, Terre Haute Electric Company, Inc., Central Indiana Power Company, and Northern Indiana Power Company, all direct or indirect subsidiaries of Hugh M. Morris, Trustee of the Estate of Midland United Company, a registered holding company. Proceedings with respect to the said plan of consolidation, as amended, are now pending before the Commission pursuant to Section 12 (e) of the Public Utility Holding Company Act of 1935 and Rules U-12E-3 (d), U-12E-(4) and U-12E-5 (File No. 34-43). The plan of consolidation, as amended, proposes that the consolidating companies will transfer their assets to a new consolidated company, Public Service Company of Indiana, Inc., and that the new consolidated company, Public Service Company of Indiana, Inc., will issue and sell its securities to the security holders of the consolidating companies, including Hugh M. Morris, Trustee of the Estate of Midland United Company, for their interests in the consolidating companies. The said plan of consolidation, as amended, also proposes that the new consolidated company, Public Service Company of Indiana, Inc., will issue and sell to Hugh M. Morris, Trustee of the Estate of Midland United Company, 166,667 shares of its common stock at \$15 per share. Applicants and declarants have designated Sections 6, 7, 9, 10, 12 (d), and 12 (f) of the Public Utility Holding Company Act of 1935 and Rules U-7, U-8, U-9C-1, U-9C-2, U-9C-3, U-12C-1, U-12D-1, and U-12F-1 adopted thereunder as applicable to the proposed transaction.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-4703; Filed, November 1, 1940;
11:45 a. m.]